

IC 29-2-6

Chapter 6. Administration of Absentee's Estate Where There Is a Will or Trust

IC 29-2-6-1

Distribution of estates; bond; trustee appointed

Sec. 1. When any resident of this state shall have absented himself from his usual place of residence and gone to parts unknown for a space of five (5) years, and when, in such case, thirty (30) days' notice shall have been given to such person by publication in a newspaper of general circulation published at the capital of the state, and also in a paper published in the county where he last resided in such state, if there be any, it shall be presumed and taken by the court having probate jurisdiction in the county where such person last resided, or any county of said state where trust funds or an interest therein have been left to such person, as hereinafter set out, that such person is dead, upon presentation of proper proof of such absence and of publication of notice. Any interest any such absentee would have in any property under and by the terms of any will shall be administered upon by the executor of such will the same as though such person were in fact dead; and where, by the terms of any will, a trust has been created in favor of such absentee, such trust shall be terminated and the executor of such will or the trustee in charge of said trust funds shall administer and dispose of such funds as are provided in such will upon the death of the cestui que trust: Provided, however, That before any distribution of any such trust funds shall be made to the person or persons entitled to receive the same, he or they shall give security to the approval of the proper circuit or superior court or probate court of the county having jurisdiction thereof, in such sum as the court shall direct, and conditioned that if the absentee shall, in fact, be at the time alive, he or they will respectively refund the amounts received by each, with interest, on demand of said cestui que trust, said bond to run and be enforced for the period of three (3) years from the date of the judgment of the court declaring said absentee legally dead, and if, during said period of three (3) years, the absentee shall not appear and demand any rights he may have in said trust, the rights of the absentee thereto shall be barred; but if the person or persons entitled to receive the same is or are unable to give the security aforesaid, then the court shall appoint a trustee, who shall give bond for the faithful performance of his duties in one and one-half times the amount of such money, with sufficient sureties, who shall invest said money at interest, as the court may direct, which interest is to be paid annually to the person or persons entitled to it, and the money to remain at interest until the security aforesaid is given, and if the absentee does not appear and demand said money and his rights in said trust within said period of three (3) years, the court shall order the money so held by such trustee so appointed by said court to be paid to the person or persons entitled to it absolutely. The provisions of this section shall apply to all pending and future administrations of trust funds left to absentees.

(Formerly: Acts 1915, c.43, s.1.)